

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2005 SEP 30 AM 8:43

In the Matter of:

Reliance Truck/Auto, Inc.

Respondent

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**Docket Nos. CAA-08-2005-0005
and CAA-08-2005-0006**

FILED
EPA REGION VIII
RECORDING CLERK

CONSENT AGREEMENT

Complainant United States Environmental Protection Agency ("EPA"), Region 8, and
Respondent Reliance Truck/Auto, Inc. hereby consent and agree as follows:

1. On March 31, 2005, EPA issued a Compliance Order ("Order") and an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint") alleging that Respondent Reliance Truck/Auto, Inc. had violated the "Stratospheric Ozone Protection" requirements of Subchapter VI of the Clean Air Act ("Act" or "CAA"), 42 U.S.C. § 7671 *et seq.* and the "Protection of Stratospheric Ozone" regulations codified in 40 C.F.R. part 82. The Complaint proposed an administrative civil penalty for the violations alleged therein, under CAA § 113, 42 U.S.C. § 7413. The EPA Docket Numbers for the Order and Complaint are CAA-08-2005-0005 and CAA-08-2005-0006, respectively.

2. Pursuant to 40 C.F.R. § 22.18(b)(2), the Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint or the Order. The Respondent does not admit any wrongdoing.

3. The Respondent waives its right to a hearing before any tribunal to contest any issue of law or fact set forth in the Complaint or the Order. It also waives its right to appeal any final order resulting from this Consent Agreement ("Agreement").

4. This Agreement, upon incorporation into a final consent order, will apply to and be binding upon EPA and upon the Respondent and the Respondent's heirs, successors and assigns. This Agreement contains all terms of the settlement agreed to by the parties.

5. The Respondent has demonstrated that it is unable to pay the full amount of the penalty proposed in the Complaint.

6. The Respondent agrees to pay a civil penalty in the amount of \$4,000.00 (with an additional \$15 as interest) in accordance with the following payment schedule:

<u>INSTALLMENT NUMBER</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
First Installment	\$1,000.00	Oct. 31, 2005
Second Installment	\$1,005.00	Jan. 31, 2006
Third Installment	\$1,005.00	April 30, 2006
Fourth Installment	\$1,005.00	July 31, 2006

7. In addition to the payments described above, Respondent shall pay stipulated penalties to the EPA for any failure by the Respondent to comply with the requirements of Subchapter VI of the CAA, 42 U.S.C. §§ 7671 *et seq.*, or 40 C.F.R. part 82, no later than thirty days after receiving written demand by EPA for payment. Any demand by EPA for stipulated penalties shall describe the violation and specify an amount to be paid, computed on the basis of a penalty of \$500.00 for each violation and, if applicable, for each day the violation continues until it is corrected. Stipulated penalties apply only to violations occurring within three (3) years of the date of the latest signature to this Agreement. Stipulated penalties are in addition to and in no

way limit EPA's right to seek any additional relief for violations of this Agreement and/or applicable law, provided, however, that EPA may not recover both stipulated penalties and statutory penalties for the same act of noncompliance.

8. All payments shall be made by remitting a cashier's or certified check for the installment amount, including "In the Matter of Reliance Truck/Auto, Inc. Docket No. CAA-08-2005-0006," payable to "Treasurer, United States of America," to:

Mellon Bank
P.O. Box 360859
Pittsburgh, PA 15251-6859

Any payment made via overnight delivery shall be sent to:

U.S. EPA, 360859
Mellon Bank
Client Service Center, Room 154-0670
500 Ross Street
Pittsburgh, PA 15262-0001

A copy of the check and any enclosed documentation shall be sent simultaneously to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

and

Joshua Rickard, 8ENF-AT
Environmental Engineer
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

9. A payment is considered late if it is not received by Mellon Bank on the stated due date. Payments must be received by 11:00 a.m. EST to be considered as received that day.

10. In the event any payment is not received by the specified due date, an additional amount of interest shall accrue from the payment due date at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. Interest will continue to accrue until the payment is received in full.

11. In addition to the accrual of interest specified in Paragraph 10 of this Agreement, a late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that any installment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the installment is paid in full. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if any penalty installment payment is not received within 90 days of the due date. Payments are first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.

12. The Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

13. Nothing in this Agreement shall relieve the Respondent of the duty to comply with the CAA and its implementing regulations. Respondent agrees that it will comply with all the requirements of Subchapter VI of the CAA, 42 U.S.C. §§ 7671 *et seq.*, and 40 C.F.R. part 82.

14. Any failure by the Respondent to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

15. Nothing in this Agreement shall be construed as a waiver by EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure of the Respondent to comply with this Agreement.

16. The parties agree to submit this Agreement to the Regional Judicial Officer for EPA Region 8, with a request that it be incorporated into a final consent order.

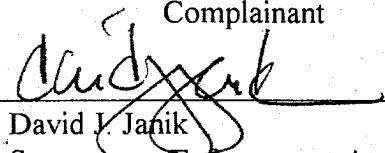
17. Each party shall bear its own costs and attorneys' fees in this matter.

18. This Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the penalties sought in the Complaint.

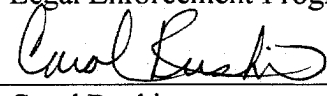
19. Each individual signing this Agreement is authorized to bind the party for which he or she has signed.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant

Date: 27 September 2005

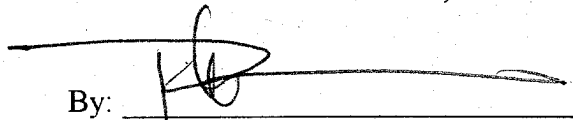
By: 
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program

Date: 28 September 2005

By: 
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region 8
999 18th St., Suite 300
Denver, CO 80202-2466

RELIANCE TRUCK/AUTO, INC.

Date: September 27, 2005

By: 
Philipp C. Theune, Attorney
Theune Law Offices, PC
1775 Sherman Str., 31st Floor
Denver, CO 80203-4323
Tel: 303.832.1150

RECEIVED

SEP 27 2005

Office of Legal Enforcement Program
Region 8 EPA

Certificate of Service

The undersigned certifies that the original of the attached Final Order in the matter of **Reliance Truck / Auto, Inc., Docket Nos. CAA-08-2005-0005 and CAA-08-2005-0006**, was filed with the Regional Hearing Clerk on September 30, 2005.

Further, the undersigned certifies that on the date indicated below, a true and correct copy of this document was delivered to Margaret J. (Peggy) Livingston, Enforcement Attorney, US EPA Region 8, 999 18th St., Suite 300, Denver, CO 80202, and that a true and correct copy of this document was sent as follows to:

Philipp C. Theune, Attorney
Theune Law Offices, PC
1775 Sherman Street, 31st Floor
Denver, CO 80203-4323
(by certified mail, return receipt requested)

and

Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. E.P.A., Mail Code 1900L
Arial Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(by pouch mail)

Date: Sept. 30, 2005.

Tina Artemis
Tina Artemis
Regional Hearing Clerk

